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MAY 26 1966
JOHN F. DAVIS, CLERK

IN THE

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1965.

No. 1048.

PEOPLE OF THE STATE OF ILLINOIS ex rel. GEORGE MUSSO, Madison County Treasurer and Ex-Officio Collector of Taxes of Madison County, Illinois,
Appellant,

vs.

CHICAGO, BURLINGTON AND QUINCY RR. CO., CHICAGO & NORTHWESTERN RR. CO., GULF, MOBILE AND OHIO RR. CO., CHICAGO AND EASTERN ILLINOIS RR. CO., ILLINOIS CENTRAL RR. CO., NEW YORK CENTRAL RR. CO., NEW YORK, CHICAGO & ST. LOUIS RR. CO., WABASH RR. CO., PENNSYLVANIA RR. CO., ILLINOIS TERMINAL RR. CO., ALTON & SOUTHERN RR. CO., and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS,
Appellees.

On Appeal from the Supreme Court of Illinois.

## APPELLANT'S PETITION FOR REHEARING.

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ST. LOUIS LAW PRINTING CO., INC., 415 N. Eighth Street. CEntral 1-4477.

IN THE

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1965.

No. 1046.

PEOPLE OF THE STATE OF ILLINOIS ex rel. GEORGE MUSSO, Madison County Treasurer and Ex-Officio Collector of Taxes of Madison County, Illinois,
Appellant,

vs.

CHICAGO, BURLINGTON AND QUINCY RR. CO., CHICAGO & NORTHWESTERN RR. CO., GULF, MOBILE AND OHIO RR. CO., CHICAGO AND EASTERN ILLINOIS RR. CO., ILLINOIS CENTRAL RR. CO., NEW YORK CENTRAL RR. CO., NEW YORK, CHICAGO & ST. LOUIS RR. CO., WABASH RR. CO., PENNSYLVANIA RR. CO., ILLINOIS TERMINAL RR. CO., ALTON & SOUTHERN RR. CO., and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS,
Appellees.

On Appeal from the Supreme Court of Illinois.

## APPELLANT'S PETITION FOR REHEARING.

Comes now the Appellant and respectfully petitions the Court to grant a rehearing in this cause, note jurisdiction and confer plenary consideration on the questions presented. If the Court will not do so, Appellant prays the Court to state whether its decision of May 16, 1966, was

based upon the procedural point of lack of finality of the judgments appealed. Appellant represents:

1. The decision of the Court reads:

> "The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied."

2. The two bases of Appellees' Motion to Dismiss are (a) no federal question is presented; (b) the judgments appealed to this Court lack finality. Either of these points may underly the decision.

3. There are presently pending in the state court below appeals to the Supreme Court of Illinois from judgments of the Circuit Court of Madison County entered on April 20, 1966, which appeals, perfected by the Appellant here, raise the same federal questions as those presented to this Court in this appeal. (See pp. 78-84 of Appellant's Brief in Opposition to Appellees' Motion to Dismiss or Affirm.)

4. If the basis of this Court's May 16, 1966, decision is lack of finality of the judgments below, a procedural matter, the Appellant can move forward to conclude the pending appeals in the state court and obtain unquestionably final judgments preparatory to perfecting another appeal to this Court. If the basis of the May 16, 1966, decision is the absence of a federal question, there is no reason to incur the effort, expense and delay entailed in pursuing the pending appeals below.

5. The distribution by the tax collector of approximately two million dollars turns on the outcome of this litigation and interest of about $8,000 a month is accruing on the judgments entered by the trial court on April 20, 1966.

## CONCLUSION.

Absent plenary consideration, clarification of the basis of this Court's May 16, 1966, decision may preclude multiple appeals to this Court.

Respectfully submitted,

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Of Counsel:

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## Certificate.

Burton C. Bernard, one of counsel for the Appellant, does hereby certify that this Petition is presented in good faith and not for delay.

Burton C. Bernard

May 25, 1966